7214356/2023/OP-WDC01

WDC01-JWCS0JWCS(MISC)/1/2018-PROG-I (742381)

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Dept., for WCDA & SCs – Sri B.Nanda Gopal, Regional Inspector of Probation, Vijayawada, working as Superintendent Special cum Children and Observation Home for Girls, Tirupathi on O.D. basis (retired while under suspension) – Imposition of punishment of 20% cut in pension permanently and treating the suspension period from 10.11.2018 to 30.06.2020 as "Not on Duty" – Orders - Issued.

DEPT., FOR WOMEN, CHILDREN, DIFFERENTLY ABLED & SENIOR CITIZENS (PROG.I)

G.O.Ms.No.11 Dated:31.03.2023.

Read the following: -

1.Lr. No.E1/103/2018, of the Director (FAC), Dept. of JW, CS & WSC, Govt. of A.P., dated.18.12.2018.
2.Proceeding of the Director (FAC), Dept., of JW, CS & WSC, Govt. of A.P., No.E1/103/2018, dated:14.11.2018.
3.Memo.No.JWCS0JWCS(MISC)/1/2018/Prog.I/A1, Dt:18.01.2019.
4.Proceeding of the Director (FAC), Dept., of JW, CS & WSC, Govt. of A.P., No.E1/103/2018, dated:08.03.2019.
5.Written Statement of Sri B.Nanda Gopal, dt:29.04.2019.
6.Lr.No.E1/103/2018 of the Director (FAC), JW, CS & WSC, Govt. of A.P., dt:25.06.2019.
7.Memo.No.JWCS0JWCS(MISC)/1/2018/Prog.I/A1,dt:10.07.2019.
8.Proceeding of the Director (FAC), Dept., of JW, CS & WSC, Govt. of A.P., No.E1/103/2018, dated:15.09.2019 & 27.09.2019.
9.Written Statement of Sri B.Nanda Gopal, dt:16.03.2019.
10.From the Director (FAC), JW, CS & WSC, Govt. of A.P., in letter dated:25.04.2020, 23.05.2020 & 20.06.2020.
11.Proceeding No.E1/103/2018 of the Director (FAC), Dept., of JW, CS & WSC, Govt. of A.P., dated:30.06.2020.
12.From the Director (FAC), JW, CS & WSC, Govt. of A.P., Lr.No.E1/103/2018, dated:10.08.2020.
13.Govt., Memo.No.742381/2018/Prog.I/A1 of Dept., for WCDA&SCs, Dt:11.12.2020.
14.Lr.No.BNG/VJA/2021, Dt:18.01.2021 from Sri B.Nanda Gopal, Regional Inspector of Probation (Retd), Tirupathi, Chittoor (dt).
15.Govt., Memo.No.742381/2018/Prog.I/A1 of Dept., for WCDA&SCs Dt:09.02.2021.
16.Lr.No.BNG/VJA/2021, Dt:15.03.2021 from Sri B.Nanda Gopal Regional Inspector of Probation (Retd) Tirupathi, Chittoor (dt).
17.Lr.No.E1/7/2021 of the Dept. of JW, CS&WSC Dt:22.03.2021.
18.Govt., Memo.No.742381/2018/Prog.I/A1 of Dept., for WCDA&SCs Dt:26.03.2021.
19.Lr.No.E1/32/2021 of JW, CS & WSC, A.P., Govt. of A.P., dt:17.04.2021.
20.Lr.No.E1/103/2018 of JW, CS & WSC, A.P., Govt. of A.P., dt:20.04.2021.
21.Govt.,Letter.No.WDC01-742381/Prog.I/A1, Dt:23.09.2021 and 02.02.2023.
22.Letter No.489/DC&C/2021 of the Secretary, A.P.P.S.C., Vijayawda Dt:16.02.2023 together with a copy of the their letter dated:01.12.2021.

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ORDER: -

In the reference 1st read above, the Director, Dept. of JW, CS & WSC, Govt. of A.P. has stated that one minor Girl by name S.Ameena, Inmate of Special Cum Children and Observation Home for Girls, Tirupathi has allegedly been sexually abused by Sri B.Nanda Gopal, Regional Inspector of Probation, Vijayawada, formerly working as the Superintendent, Special Cum Children and Observation Home for Girls, Tirupathi on OD basis, while she was at Special cum Children and Observation Home for Girls, Tirupathi and a FIR No.315/2018 dt:05.11.2018 under Section 376 (n) (d) IPC & Section 3 r/w 4 of POCSO Act, 2012 was filed at Chinna Chowk, U/G Police Station, Kadapa, YSR Kadapa against Sri B. Nanda Gopal. Accordingly, he was kept under suspension vide Proc E1/103/2018-I, dt:08.11.2018 in exercise of the powers conferred by sub-rule 1

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of rule 8 of APCS (CCA) Rule, 1991.

2. In the reference 2nd read above, a Committee was constituted by the Director (FAC), Dept. of JW, CS & WSC to conduct a detailed enquiry on the allegations raised against Sri B.Nanda Gopal. The Committee in their report concluded that Sri B.Nanda Gopal, misbehaved with the victim girl Ameena sexually and otherwise, and there is a prime facie case against him so far as it relates to the commission of rape on Ammena and child abuse as has been covered under the POCSO Act.

3. In the reference 3rd read above, the Director(FAC), Juvenile Welfare has been informed that the Enquiry Report of the Committee constituted by him may be treated as Preliminary Enquiry Report, based on which the disciplinary authority may initiate the disciplinary proceedings under Rule - 20 of A P.C.S. (CC & A) Rules, 1991, by framing the Article of Charges etc, against Charged Officer.

4. In the reference 4th read above, 5 charges were framed against Sri B. Nanda Gopal, with a direction to submit his written statement of defense. In the reference 5th read above, Sri B.Nanda Gopal, Regional inspector of Probation, Vijayawada, (Under suspension), has submitted his written statement of defense on charges framed against him and he has not admitted any of the charges.

5. In the reference 6th read above, the Director, Dept. of J. W., C.S. & W.S.C., has requested the Government to clarify (1) whether the Enquiry Officer and Presenting Officer have to be appointed to inquire into the charges framed against the individual including charge –I or excluding charge -I and (2) whether the individual can be reinstated in to service or not, still criminal case and departmental disciplinary case are pending against the individual.

6. Accordingly, in the reference 7th read above, Govt. informed that as mentioned in Andhra Pradesh Vigilance Manual Vol.I, Chapter -XXII at point 7.1, there is no legal bar for the Disciplinary Authority to initiate disciplinary action pending investigation by the police or pending criminal proceedings before a court of law. The purpose of the two proceedings is quite different. The objective of disciplinary proceedings is to ascertain whether the office concerned is a person to be retained in service or not, or to be dealt with by imposing a suitable penalty. On the other hand, the object of criminal prosecution is to find out whether the ingredients of the offense as defined in the penal statute have been made out. The holding of a departmental inquiry during the pendency of a criminal prosecution in respect of the same subject matter would not amount to contempt of court. Only where the employee goes to the court and obtains a stay order, a wilful violation of that order alone would amount to contempt of court. If the case is of a grave nature or involves questions of fact and law which are not simple, it is advisable to wait the decision of the court and also informed that it is for the HOD, being Appointing / Disciplinary Authority, to take action as per Rules regarding revocation of suspension, stating the above, and requested to the Director (FAC), Dept. of JW, CS & WSC to take further action, accordingly, in the matter duly following the procedure as per Rules in force.

7. In the reference 8th read above, Smt K. Padma, Regional Joint Director, Dept. of Women Development and Child Welfare, Andhra Pradesh was appointed as Enquiry Officer and Smt.Uma Devi, Joint Project Co-Coordinator, Poshan Abhiyan, O/o the Director, Women Development and Child Welfare, Guntur, Andhra Pradesh was appointed as Presenting Officer to enquire into the charges framed against the charged officer.

8. The Inquiry Officer, submitted her Inquiry Report vide Letter No. WDCW/ADM/121/2019/SA (A) RDDVSP, Dt:10-1-2020. In her Inquiry Report, she has reported that Sri B. Nanada Gopal has Violated the J.J Rules. Out of 5 charges frame against the individual 4 charges are held proved and 1 charge partially proved. As per the findings of the Enquiry Officer and as per the recorded evidences, it is established that the charged officer has violated the J.J Rules and Conduct Rules. Conduct Rule 3 (1,2.3) says that every Government employee shall be devoted to his duty and shall maintain absolute integrity, discipline, impartiality and a sense of propriety and no Govt., employee shall behave in a manner which is unbecoming of such employee or derogatory to the prestige of Govt., and no Govt., employee shall act in a manner which will place his official position under any kind of embarrassment.

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9. The Inquiry Report has been forwarded to Sri B. Nanda Gopal (under suspension) with a direction to submit his written statement. Accordingly, the Charged Officer has submitted his written statement on 16-03-2020 and requested to drop all charges I to V or quash the entire proceedings and denovo proceedings ordered to be conducted by a person well versed with the A.P., CCA Rules, 1991 and the J.J. Act 2015 and also having knowledge and work experience in the juvenile institutions.

10. In the reference 10th read above, the Director, Dept. of J.W., C.S. & W.S.C., has requested the Government to impose major penalty of Dismissal from Service to Sri B. Nanda Gopal, Regional Inspector of Probation, Vijayawada (under suspension) as per rules and procedure, since the offense is grave in nature and has been conducted by a person in authority holding a position of trust amongst the children, this also reflects on the moral degradation and lack of integrity of the charged officer. Further, as per the findings of the Inquiry Officer and as per the recorded evidence, it is established that the charged officer has violated the J.J Rules and Conduct Rules.

11. While the issue was under examination, Sri B. Nanda Gopal, Regional Inspector of Probation, Vijayawada (under suspension) was allowed to retire under suspension on the A.N. of 30.06.2020, without prejudice to the disciplinary case / criminal case and subject to outcome of W.P / O.A.s, if any filed, vide reference 11th read above.

12. In the reference 13th read above, a show-cause notice has been issued to the Charged Officer specifying the provision decision taken by the Government to impose a punishment of withholding of 20% pension permanently under Rule-9 of A.P. Revised Pension Rules 1980, besides treating the suspension period from 10-11-2018 to 30-06-2020 as "Not on Duty" under FR-54 B and requested to submit his representation thereon. In the reference 14th read above, the Charged Officer has submitted his reply to the show cause notice wherein he has requested for extension of his reply by another 30 days and the Government extended time by another 30 days.

13. In the reference 16th read above, Sri B.Nanda Gopal has requested to kindly direct the Chief Probation Superintendent / P.I.O to furnish the required information to correct postal address. In this regard, the JW, CS & WSC, Govt. of A.P. has furnished the information to applicant duly attested by PIO in the reference 17th read above.

14. In the reference 18th read above, the request of Sri B.Nanda Gopal for extension of time for a period of 15 days to submit reply for show cause notice has been rejected and Sri B.Nanda Gopal, Regional Inspector of Probation (Retired under suspension) has submitted reply for show cause notice vide reference 19th read above. In this regard, the Dept. of JW, CS & WSC, Govt. of A.P. submitted Check list and Annexure and relevant documents to be submitted to APPSC, vide reference 20th read above.

15. After careful examination of the entire matter, explanation of the Charged Officer and Inquiry report, Government have decided to confirm the penalty of withholding of 20% pension permanently under Rule-9 of A.P. Revised Pension Rule 1980, and treating the suspension period from 10.11.2018 to 30.06.2020 as "Not on Duty" under FR-54 B to be imposed on Sri B.Nanda Gopal, Regional Inspector of Probation, Vijayawada (Retd).

16. In the reference 21st read above, the Secretary, A.P. Public Service Commission has been requested to communicate the concurrence of the Commission on the penalty at para 15 above to be imposed on Sri B. Nanda Gopal, Regional Inspector of Probation Vijayawada (Retd).

17. Government after careful examination of the entire matter and in exercise of the powers conferred under Rule-9 of A.P. Revised Pension Rule 1980 hereby impose the punishment of withholding of 20% pension permanently and treating the suspension period from 10-11-2018 to 30-06-2020 as " Not on Duty" under FR-54 B against Sri B Nanda Gopal, Regional Inspector of Probation, Vijayawada (Retd.,).

18. A copy of the advice of the A.P.P.S.C., Vijayawada, Dated:16.02.2023 and 23.09.2021 is here with furnished to Sri B.Nanda Gopal, Regional Inspector of Probation, Vijayawada (Retd) as required under Rule 23 of A.P.C.S. (C.C.&A.) Rules, 1991.

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19. The Joint Director, Dept. of Juvenile Welfare, Correctional Services and Welfare of Street Children, Govt. of A.P. shall take necessary action, accordingly, in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

MUDDADA RAVICHANDRA
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri. B.Nanda Gopal,
Regional Inspector of Probation (Retired),
Vijayawada through O/o the Dept. of JW,
CS & WSC, Govt. of A.P. .
The Joint Director (FAC),
Dept., of JW, CS & WSC,
Govt. of A.P.

Copy to:-
The Accountant General (AP), Vijayawada.
The Pay & Accounts Officer, (AP),
Mangalagiri.
The Director of Treasuries & Accounts, (AP)
Mangalagiri.
The Secretary,
A.P.P.S.C., Vijayawada.
The P.S. to Principal Secretary to Govt.,
Dept. for WCDA&SCs.
The Finance (HR-II) Department
SF/SC.

// FORWARDED: BY ORDER//

DMSV Ramana
SECTION OFFICER